THE HON'BLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 10408 of 2006

Date: 27.06.2006

Between:

T. Nageshwar Rao

... PETITIONER

AND

The Sub Divisional Forest Officer,
Mahabubabad, Warangal District
& another.

... RESPONDENTS

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ORDER:

The petitioner, who is the owner of the lorry bearing registration No.KA01 A-779, has filed this writ petition to declare the seizure of the said vehicle by the forest authorities, as illegal and arbitrary.

In the affidavit filed in support of the writ petition it is stated that the petitioner is the absolute owner of the lorry bearing No.KA01 A-779 and having necessary permits as required under the Motor Vehicles Act and Rules made thereunder. When the petitioner was transporting granite extracted from Sy.No.154 of Gudenga Village of Gudur Mandal of Warangal District on the permit issued pursuant to the lease granted to one V. Lachi Reddy, the vehicle was seized on 20.04.2006. It is the case of the petitioner that there are no grounds for effecting such seizure, and the lorry was not carrying any appraised forest produce to effect seizure by the respondent forest officers.

In the counter-affidavit filed on behalf of the respondents it is stated that one Mr. V. Lachi Reddy was granted lease for granite for 20 years in Sy.No.154 of Gudenga Village in two different proceedings in a total extent of 3.31 hectors. It is the claim of the respondents that 2.31 hectors is adjacent to the reserved forest area and one hector for which lease is granted is a part of the forest area. The seizure is effected only on the ground that the mining quarry operations were done from the land, which is notified as forest area as claimed by the respondents.

It is not in dispute that the petitioner was carrying all the required

permits to undertake such transportation of granite. It is also not in dispute that there is a lease for 3.31 hectors in Sy.No.154 under two different proceedings and at the first instance to an extent of 2.31 hectors and further to an extent of one hector. Though there is a claim that one hector in which lease was granted is part and parcel of the reserved forest area, the fact remains that there is an existing lease in favour of the lessee with regard to such one hector also.

In that view of the matter, prima facie, it cannot be said that the petitioner has violated any of the provisions of the Forest Act or the Rules made thereunder in accepting the transportation of granite as per the permits issued under the provisions of A.P. Minor Mineral Concession Rules, framed under Mines and Minerals (Regulation and Development) Act, 1957. Though a detailed enquiry is to be conducted by the concerned officials, but, prima facie, seizure appears to be arbitrary and illegal.

In that view of the matter, having regard to the nature of the allegations made against the petitioner, I dispose of the writ petition directing the respondents to release the vehicle in question on furnishing a bank guarantee for a sum of Rs.1,00,000/- (Rupees one lakh only) to the Sub Divisional Forest Officer, Mahaboobabad, Warangal District. Bank guarantee shall be given initially for a period of one year and the same would be subject to final orders to be passed by the respondents.

However, it is made clear that the respondents are at liberty to conduct enquiry on its own merits without influenced by any of the observations of this order.

There shall be no order as to costs.

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27.06.2006

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